

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4087-01
Bill No.: HB 1145
Subject: Health Care; Children and Minors
Type: Original
Date: February 6, 2012

Bill Summary: Establishes “Sam Pratt’s Law” and “Nathan’s Law” and modifies provisions relating to child care providers.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)	(Unknown greater than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	Unknown	Unknown	Unknown
Total Estimated Net Effect on FTE	Unknown	Unknown	Unknown

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Administrative Hearing Commission, Office of State Courts Administrator, Department of Mental Health, Department of Public Safety - Missouri State Highway Patrol, and Parkway School District** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Attorney General** assume any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Corrections (DOC)** state the penalty provisions for violations, the component of the bill to have a potential fiscal impact for DOC, is for a class A misdemeanor. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Prolongation (FY 11 average of \$5.12 per offender, per day, or an annual cost of \$1,869 per offender).

The DOC assumes supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal will have no measurable fiscal impact on the OPS. The creation of a new crime creates additional responsibilities for county prosecutors which may, in turn, result in additional costs, which are difficult to determine.

Oversight assumes the potential responsibilities imposed on county prosecutors as a result of this proposal, will be absorbable within current funding and staffing levels.

Officials from the **Office of Administration - Division of Budget and Planning (BAP)** state the proposed legislation would not result in additional costs or savings to the BAP. However, the additional penalty provision in section 210.245, RSMo, will impact total state revenue, but not 18e, by an unknown amount.

ASSUMPTION (continued)

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are faced with the new crime of continuing to provide child care services following notification by the department to cease such child care services, a new Class B misdemeanor. Any second or subsequent violation of this section would be a new Class A misdemeanor.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation in all cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Elementary and Secondary Education (DESE)** state there is no anticipated state cost to the foundation formula associated with this proposal. To the extent fine revenues exceed 2004-2005 collections, any increase in this money distributed to school districts increases the deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula.

Officials from the **Department of Social Services (DSS)** state while this proposal will impact license exempt child care providers, the Children's Division does not anticipate a fiscal impact. However, it should be noted that 210.025, RSMo, affords provisions to prohibit license exempt family home child care providers from participating in the Child Care Subsidy program if they (the provider) or any member of their household age 17 or older have a criminal background with specified convictions, or a child abuse/neglect finding of substantiated, probable cause, or preponderance of the evidence.

Officials from the **Department of Health and Senior Services (DHSS)** provide the following assumptions:

ASSUMPTION (continued)

Section 210.211.1(1)

According to the Department of Social Services, there was an average of 3,223 registered unlicensed child care providers during FY 2011. The DHSS is unable to estimate the number of unlicensed child care providers that are not registered and, therefore, assumes that an unknown number of child care providers will be required to be licensed as a result of the proposed legislation.

The Division of Regulation and Licensure (DRL) is responsible for the inspection, licensure, and regulation of child care programs in Missouri. Inspectors conduct inspections of licensed child care programs semi-annually and complaint investigations as needed.

In addition to the inspections conducted by DRL, the Division of Community and Public Health conducts safety and sanitation inspections for licensed child care providers at the time of licensure and annually thereafter.

Section 210.245.1

The proposed legislation imposes a fine of two hundred dollars per day, not to exceed a total of ten thousand dollars for any person that violates the child care licensure provisions set forth in sections 210.201 to 210.245 for a second or subsequent time. The department assumes an unknown increase in General Revenue as a result of the imposition of increased fines.

Section 210.265

Chapter 210, RSMo, provides for numerous exemptions from licensure, including persons caring for four or fewer children who are not related to the provider within the third degree; school systems; and businesses that operate a child care program as a convenience to their customers or employees for more than four hours per day. This chapter also provides that religious programs operating a child care program are exempt from licensure; however they are required to be inspected for health and safety, fire safety, and sanitation annually. DHSS' Section for Child Care Regulation (SCCR) is not able to estimate the number of providers in these categories in order to estimate the number of potential investigations that may be required. The DHSS estimates the cost of conducting an investigation for a childcare facility to be approximately \$392 per inspection. However, since these individuals are exempt from licensure, the SCCR does not currently regulate or inspect these individuals. Therefore, the impact of the legislation is anticipated to result in an unknown cost to DHSS.

ASSUMPTION (continued)

Summary

The proposed legislation would result in the need for additional inspectors. Due to the unknown number of child care providers that will be required to be licensed and the unknown number of investigations that will be required, the DHSS estimates an impact of (Unknown, > \$100,000) annually. The department further estimates that as a result of the imposition of increased fines, the proposed legislation will cause an unknown increase in General Revenue.

Oversight assumes any increase or decrease in fine or penalty revenues generated cannot be determined. Therefore, the fiscal note does not reflect any fine or penalty revenues for the local school districts.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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GENERAL REVENUE FUND

§§210.211 and 210.245

Costs - Department of Health and Senior Services

Program costs	(Unknown exceeding \$100,000)	(Unknown exceeding \$100,000)	(Unknown exceeding \$100,000)
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§210.265

Costs - Department of Health and Senior Services

Personal Service	(Unknown)	(Unknown)	(Unknown)
Fringe Benefits	(Unknown)	(Unknown)	(Unknown)
Equipment and Expense	(Unknown)	(Unknown)	(Unknown)
Program Costs	(Unknown)	(Unknown)	(Unknown)
Total <u>Costs</u> - DHSS	(Unknown)	(Unknown)	(Unknown)

FTE Change - DHSS	Unknown FTE	Unknown FTE	Unknown FTE
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**ESTIMATED NET EFFECT ON
GENERAL REVENUE FUND**

<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>	<u>(Unknown exceeding \$100,000)</u>
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Estimated Net FTE Change for General Revenue Fund	Unknown FTE	Unknown FTE	Unknown FTE
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FISCAL IMPACT - Local Government

FY 2013
(10 Mo.)

FY 2014

FY 2015

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Sections 210.211 and 210.245

In order to maintain and operate a child care facility, child care providers who currently care for related children will be required to have a license granted by the Department of Health and Senior Services if they care for more than four children.

Section 210.265:

If pending criminal charges against an unlicensed child care provider would similarly result in the sanction of the license of a licensed child care provider based on such pending criminal charges, the unlicensed provider would be prohibited from continuing to provide child care services in Missouri until the pending criminal charges are resolved in favor of the unlicensed child care provider.

FISCAL DESCRIPTION

This proposal establishes Nathan's Law and Sam Pratt's Law which change the laws regarding child care providers.

In its main provisions, Nathan's Law: (1) Specifies that a child related by blood, marriage, or adoption will be counted in the total number of children being cared for as it applies to the determination if a provider needs to be licensed except that a child living in the home who attends a full day of school will not be included in the total; (2) Assesses a fine of \$200 per day, not to exceed \$10,000, to any person violating the provisions regarding licensure of child care facilities for a second or subsequent time; and (3) Authorizes the Department of Health and Senior Services to immediately close any illegally operating unlicensed child care facility. A local prosecutor may file suit for a permanent order preventing the operation of the facility which will remain in effect until the court determines that the child care facility is in compliance with all licensing requirements.

In its main provisions, Sam Pratt's Law authorizes the department, if it has been notified or has determined that criminal charges are pending against an unlicensed child care provider, to conduct an investigation in the same manner as an investigation would occur for a licensed child

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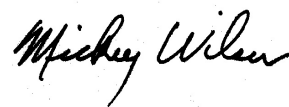
FISCAL DESCRIPTION (continued)

care provider. If the department determines that the pending charges would similarly result in the sanction of the license of the licensed provider, it must notify the unlicensed child care provider that he or she is prohibited from providing child care services pending a resolution of the charges in favor of the provider. Any unlicensed child care provider who continues to provide services after notification by the department to cease will be guilty of a class B misdemeanor for the first violation and a class A misdemeanor for any subsequent violation. The department must report any known violation of these provisions to the appropriate prosecuting attorney's office or law enforcement agency.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General
Office of Administration -
 Administrative Hearing Commission
 Division of Budget and Planning
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Mental Health
Department of Corrections
Department of Health and Senior Services
Department of Social Services
Department of Public Safety -
 Missouri State Highway Patrol
Office of Prosecution Services
Office of State Public Defender
Parkway School District



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